

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MAIL PROCESSING NETWORK RATIONALIZATION
SERVICE CHANGES, 2011

Docket No. N2012-1

**REPLY OF THE UNITED STATES POSTAL SERVICE
TO STATEMENTS OF NPMHU AND APWU REGARDING
THE PROCEDURAL SCHEDULE**

The United States Postal Service hereby files this reply to the Statement by the National Postal Mail Handlers Union (filed March 26, 2012) and the Statement of the American Postal Workers Union (filed March 27, 2012).

The Postal Service does not agree that updates are necessary, since the fundamental foundation of its Request for an advisory opinion has not, and does not, change with the February 23 announcement of facility consolidation study decisions. The Request is supported by a full justification for the proposed service changes, plus a complete analysis of the annual savings such changes would enable based on an assumed operating network. Announcement of almost all of the facility consolidation determinations merely lays the foundation for the implementation of operational changes that are contingent upon a decision to implement service standard changes. Initiation of implementation of operational changes will be spread over an 18-month period and when it occurs will illuminate more precisely at each location what will change and what the impact on costs will be. A standard post-implementation review process will be employed to measure the consolidation-by-consolidation cost impacts. Unlike the materials supporting the Request, the facility consolidation study results cannot describe the fully implemented network, since they do not even attempt to coordinate findings with one another across the network. Yet they do constitute

information that it was known would become available when the procedural schedule was first developed. Their arrival does not effect material change upon the original service change proposal, although as the Presiding Officer recognizes, they do shed new light on details that comprise the beginning—but not the end—of analysis that will eventually allow a comparison with the original projections.

The intervenor statements propose alternate sets of procedural schedule adjustments to be implemented by the Postal Regulatory Commission in anticipation of the Postal Service's filing of updates integrating local operational and cost details consistent with the Postal Service's Request for an advisory opinion, data based on an assumption that the rationalized network concept implied by the facility-specific consolidation decisions announced on February 23, 2012, is a precise depiction of what will, in fact, be implemented.¹

The undisputed purpose of this proceeding is for the Postal Service to receive a non-binding advisory opinion from the Commission on the question of whether changes in postal services (anticipated to result from a substantial rationalization of the mail processing network) would be consistent with applicable policies of title 39. Those policies grant postal management relatively broad authority to determine the nature of those services and even broader authority to determine the character of the mail processing network that will be utilized to provide those services.

At page 2 of its Statement, NPMHU asserts that the role of the Commission under section 3661 is to second-guess postal management about whether to implement

¹ The dis-utility of this view is inherent in the understanding that new details will become available continuously during implementation until the final network emerges, resulting in operational adjustments and modifications, none of which affect the proposed service changes or the final service changes expected to be announced in mid-April 2012.

service changes based on whether the operational changes have some "undue effect on the efficient delivery of the mail." However, no basis for reading NPMHU's "undue effect on efficiency" test (whatever NPHMU may later claim it means) into the statutory scheme can be found.

As indicated at the hearing on March, 23, 2012, the Postal Service anticipates publishing final service standard changes in mid-April. Concurrently, based on the above-referenced February 23 network concept, if required by the Commission, the Postal Service anticipates being able to transmit operations related data to costing witnesses Bradley (USPS-T-9) and Smith (USPS-T-10). By the end of the first week of May, the Postal Service anticipates being able to file updated operations and costs data that assume implementation of the February 23 network concept. Tr. Vol. 5 at 1538-42. The February 23 network concept reflects fewer facility consolidations than were assumed for purposes of testimony filed back on December 5, 2011. Accordingly, it can reasonably be anticipated that the original \$2.6 billion gross operational cost savings estimate based on 252 potential facility consolidations will be reduced, given that the number of potential facility consolidations will be reduced to approximately 230. The parties have had extensive opportunity to conduct written discovery and conduct oral cross-examination on the aforementioned testimony. It is anticipated that the operational and cost information that assume implementation, without any of the necessary evolution of the February 23 network concept, together with the final service standard rules, can be presented so as to permit ready understanding that a February 23 definition of the network would entail somewhat lower annual cost savings than originally projected by the cost modeling already on the record. Upon this simple

expectation, APWU and APMHU build extensive demands for additional adjustments to the procedural schedule. In fact, and in perfect consistency with their due process rights, they can already begin fashioning that point for inclusion into testimony due on April 23 without even having to wait for the updates.

Whether the updated future mail processing network facility number is 223 or 232 and whether the resulting "full-up" cost savings estimate is \$2.4 or \$2.3 billion has no bearing on the core question already squarely presented by the Request for an advisory opinion: are the service changes proposed by the Postal Service consistent with the policies of title 39 when pursued to make operational changes that generate fundamental new efficiencies which improve financial stability in the face of daunting cost, volume and revenue trends? NPMHU asserts that the actual contours of the network and whether the rationalization plan would in fact result in the estimated savings are essential to the Commission's inquiry into whether this is an advisable plan that can be implemented without undue effect on the efficient delivery of the mail. However, whether the changes in the nature of service are permitted by the statutory scheme -- which is the question before the Commission -- does not hinge on whether, in the Commission's opinion, the underlying operational changes "would in fact result" in 110 or 100 or 90 percent of the estimated cost savings. No empirical efficiency threshold barometer can be defined that determines whether a service change is permitted by title 39. That said, and assuming the Commission collectively concludes that updates must be filed on the schedule Postal Service counsel projects, the Postal Service addresses the procedural adjustments proposed by NPMHU and APWU below.

Both parties anticipate filing rebuttal testimony on April 23. In anticipation of the Postal Service filing updated operational and cost information in early May, NPMHU takes on the role of the "good cop" and insists that two weeks of written discovery on the Postal Service updates will be needed. APWU assumes a complementary role and demands three weeks of discovery on the supplemental Postal Service filings. After receipt of all of the Postal Service's responses to their discovery requests, each party then requests either a corresponding two- or three-week opportunity to revise its April 23 rebuttal testimony. NPMHU also proposes that it be given two weeks after receipt of all Postal Service discovery responses to then request additional oral cross-examination of postal witnesses.

The Postal Service initially notes that to the extent the Presiding Officer directs supplementation of the Postal Service's direct case, the Presiding Officer must be mindful of the need to ensure that the procedural schedule not be further delayed. To the extent the supplementation of the Postal Service's direct case is required, the Postal Service suggests that the Presiding Officer treat deadlines for that limited purpose according to a separate track. Specifically, the Postal Service proposes that the parties be given seven calendar days from the date of its filing of supplemental materials in early May filing to submit any corresponding supplemental written discovery requests, and that a special rule be adopted establishing a ten-day deadline for the filing of responses. Parties, as always, are encouraged to work with postal counsel to informally resolve matters relating to discovery. Successes achieved earlier in this docket along these lines illustrate how productive such an approach can be. If a need can be demonstrated, the Postal Service can schedule informal off-the-record technical

conferences to expedite the ability of parties to comprehend the supplemental materials, although since the testimonial foundations previously supplied failed (with one exception not pertinent here) to generate such requests this eventuality seems unlikely.

In response to the NPMHU concern about the possibility of oral cross-examination on supplemental postal information, the Postal Service observes that such examination could be conducted in conjunction with the June 12-15 schedule for cross-examination on intervenor rebuttal testimony.

A sharply-focused cycle of supplemental discovery directed at the Postal Service supplemental filing should provide a reasonable basis for parties who will have filed rebuttal testimony on April 23 to supplement or revise their testimony in late May. An appropriate relaxation of the current May 23 deadline for discovery on intervenor rebuttal would thus seem appropriate, as well as consideration of a special rule shortening the deadline for intervenor responses to discovery, in order to minimize any downstream changes to the overall procedural schedule.

The Postal Service requests that the Commission not address the APWU proposal for expedited access to supplemental non-public information at this time, long before it is clear whether there is a need to do so. Instead, the Postal Service proposes that if and when it becomes clear to the Postal Service four or five weeks from now that it will be filing supplemental non-public data, it will notify APWU and explore any need for and how best to address swift access to such information.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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